

AMENDED IN SENATE MARCH 24, 2014

**SENATE BILL**

**No. 1340**

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**Introduced by Senator Hernandez**

February 21, 2014

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An act to amend Section 1367.49 of the Health and Safety Code, and to amend Section 10133.64 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1340, as amended, Hernandez. Health care coverage: provider contracts.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits a contract by or on behalf of a plan or insurer and a licensed hospital, as defined, or any other licensed health care facility owned by a licensed hospital to provide inpatient hospital services or ambulatory care services to subscribers and enrollees of the plan or policyholders and insureds of the insurer from containing a provision that restricts the ability of the plan or insurer to furnish information to subscribers or enrollees of the plan or policyholders or insureds of the insurer concerning the cost range of procedures at the hospital or facility or the quality of services performed by the hospital or facility. Existing law makes a contractual provision inconsistent with this requirement void and unenforceable. Existing law requires a plan or insurer to provide a hospital or facility at least 20 days to review the methodology and data used before cost or quality information is provided to subscribers or enrollees of the plan or to policyholders or

insureds of the insurer, as specified. Existing law also establishes requirements applicable to information displayed on an Internet Web site pursuant to these provisions by, or on behalf of, a plan or insurer.

This bill would instead prohibit a contract between a plan or insurer and a provider or supplier, as defined, from containing a provision that restricts the ability of the plan or insurer to furnish information to consumers or purchasers, as defined, concerning the cost range of a procedure or full course of treatment or the quality of services performed by the provider or supplier. The bill would require a plan or insurer to provide a provider or supplier with ~~at least~~ 30 days to review the methodology and data used and would make related, conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1367.49 of the Health and Safety Code  
2     is amended to read:  
3     1367.49. (a) A contract issued, amended, renewed, or delivered  
4     on or after January 1, 2015, by or on behalf of a health care service  
5     plan and a provider or supplier shall not contain any provision that  
6     restricts the ability of the health care service plan to furnish  
7     consumers or purchasers information concerning any of the  
8     following:  
9     (1) The cost range of a procedure or a full course of treatment,  
10    including, but not limited to, facility, professional, and diagnostic  
11    services, prescription drugs, durable medical equipment, and other  
12    items and services related to the treatment.  
13    (2) The quality of services performed by the provider or supplier.  
14    (b) Any contractual provision inconsistent with this section shall  
15    be void and unenforceable.  
16    (c) A health care service plan shall provide the provider or  
17    supplier an advance opportunity of ~~at least~~ 30 days to review the  
18    methodology and data developed and compiled by the health care  
19    service plan, and used pursuant to subdivision (a), before cost or  
20    quality information is provided to consumers or purchasers,  
21    including material revisions or additions of new information. At  
22    the time the health care service plan provides a provider or supplier  
23    with the opportunity to review the methodology and data, it shall

1 also notify the provider or supplier in writing of their opportunity  
2 to provide an Internet Web site link pursuant to subdivision (f).

3 (d) If the information proposed to be furnished to enrollees and  
4 subscribers on the quality of services performed by a provider or  
5 supplier is data that the plan has developed and compiled, the plan  
6 shall utilize appropriate risk adjustment factors to account for  
7 different characteristics of the population, such as case mix,  
8 severity of patient's condition, comorbidities, outlier episodes, and  
9 other factors to account for differences in the use of health care  
10 resources among providers and suppliers.

11 (e) Any Internet Web site owned or controlled by a health care  
12 service plan, or operated by another person or entity under contract  
13 with or on behalf of a health care service plan, that displays the  
14 information developed and compiled by the health care service  
15 plan as referenced by this section shall prominently post the  
16 following statement:

17  
18 "Individual facilities or health care providers may disagree with  
19 the methodology used to define the cost ranges, the cost data, or  
20 quality measures. Many factors may influence cost or quality,  
21 including, but not limited to, the cost of uninsured and charity care,  
22 the type and severity of procedures, the case mix of a ~~hospital~~  
23 *facility*, special services such as trauma centers, burn units, medical  
24 and other educational programs, research, transplant services,  
25 technology, payer mix, and other factors affecting individual  
26 facilities and health care providers."

27  
28 A health care service plan and a provider or supplier shall not  
29 be precluded from mutually agreeing in writing to an alternative  
30 method of conveying this statement.

31 (f) If a provider or supplier chooses to provide an Internet Web  
32 site link where a response to the health care service plan's posting  
33 may be found, it shall do so in a timely manner in order to satisfy  
34 the requirements of this section. If a provider or supplier chooses  
35 to provide a response, a plan shall post, in an easily identified  
36 manner, a prominent link to the provider's or supplier's Internet  
37 Web site where a response to the plan's posting may be found. A  
38 health care service plan and a provider or supplier shall not be  
39 precluded from mutually agreeing in writing to an alternative  
40 method to convey a provider's or supplier's response.

(g) For the purposes of this section, the following definitions shall apply:

(1) “Consumers” means enrollees or subscribers of the health care service plan or beneficiaries of a self-funded health coverage arrangement administered by the health care service plan or other persons entitled to access services through a network established by the health care service plan.

(2) “Provider” has the same meaning as that term is defined in Section 1367.50.

(3) “Purchasers” means the sponsors of a self-funded health coverage arrangement administered by the health care service plan.

(4) “Supplier” has the same meaning as that term is defined in Section 1367.50.

(h) Section 1390 shall not apply for purposes of this section.

SEC. 2. Section 10133.64 of the Insurance Code is amended to read:

10133.64. (a) A contract issued, amended, renewed, or delivered on or after January 1, 2015, by or on behalf of a health insurer and a provider or supplier shall not contain any provision that restricts the ability of the health insurer to furnish consumers or purchasers information concerning any of the following:

(1) The cost range of a procedure or a full course of treatment, including, but not limited to, facility, professional, and diagnostic services, prescription drugs, durable medical equipment, and other items and services related to the treatment.

(2) The quality of services performed by the provider or supplier.

(b) Any contractual provision inconsistent with this section shall be void and unenforceable.

(c) A health insurer shall provide the provider or supplier an advance opportunity of ~~at least~~ 30 days to review the methodology and data developed and compiled by the health insurer, and used pursuant to subdivision (a), before cost or quality information is provided to consumers or purchasers, including material revisions or additions of new information. At the time the health insurer provides a provider or supplier with the opportunity to review the methodology and data, it shall also notify the provider or supplier in writing of their opportunity to provide an Internet Web site link pursuant to subdivision (f).

(d) If the information proposed to be furnished to policyholders and insureds on the quality of services performed by a provider or

1 supplier is data that the insurer has developed and compiled, the  
2 insurer shall utilize appropriate risk adjustment factors to account  
3 for different characteristics of the population, such as case mix,  
4 severity of patient's condition, comorbidities, outlier episodes, and  
5 other factors to account for differences in the use of health care  
6 resources among providers and suppliers.

7 (e) Any Internet Web site owned or controlled by a health  
8 insurer, or operated by another person or entity under contract with  
9 or on behalf of a health insurer, that displays the information  
10 developed and compiled by the health insurer as referenced by this  
11 section shall prominently post the following statement:  
12

13 "Individual health care facilities or providers may disagree with  
14 the methodology used to define the cost ranges, the cost data, or  
15 quality measures. Many factors may influence cost or quality,  
16 including, but not limited to, the cost of uninsured and charity care,  
17 the type and severity of procedures, the case mix of a facility,  
18 special services such as trauma centers, burn units, medical and  
19 other educational programs, research, transplant services,  
20 technology, payer mix, and other factors affecting individual health  
21 care facilities and providers."  
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23 A health insurer and a provider or supplier shall not be precluded  
24 from mutually agreeing in writing to an alternative method of  
25 conveying this statement.

26 (f) If a provider or supplier chooses to provide an Internet Web  
27 site link where a response to the health insurer's posting may be  
28 found, it shall do so in a timely manner in order to satisfy the  
29 requirements of this section. If a provider or supplier chooses to  
30 provide a response, an insurer shall post, in an easily identified  
31 manner, a prominent link to the provider's or supplier's Internet  
32 Web site where a response to the health insurer's posting may be  
33 found. A health insurer and a provider or supplier shall not be  
34 precluded from mutually agreeing in writing to an alternative  
35 method to convey a provider's or supplier's response.

36 (g) For the purposes of this section, the following definitions  
37 shall apply:

38 (1) "Consumers" means policyholders or insureds of the health  
39 insurer or beneficiaries of a self-funded health coverage  
40 arrangement administered by the health insurer or other persons

1 entitled to access services through a network established by the  
2 health insurer.

3 (2) “Provider” has the same meaning as that term is defined in  
4 Section 10117.52.

5 (3) “Purchasers” means the sponsors of a self-funded health  
6 coverage arrangement administered by the health insurer.

7 (4) “Supplier” has the same meaning as that term is defined in  
8 Section 10117.52.

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